

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

AUSTIN R. DAVIS,

Plaintiff

v.

ANDREW M. SAUL,
Commissioner of Social Security¹

Defendant

No. 3:18cv1178

(Judge Munley)

(Chief Magistrate Judge Schwab)

ORDER

AND NOW, to wit, this 3rd day of September 2019, we have before us for disposition Chief Magistrate Judge Susan Schwab's report and recommendation, which proposes that plaintiff's social security appeal be denied.

No objections to the report and recommendation have been filed, and the time for such filing has passed. Therefore, in deciding whether to adopt the report and recommendation, we must determine if a review of the record evidences

¹ At the time the case was filed, the Acting Commissioner of Social Security was Nancy A. Berryhill, and thus, plaintiff named her as the defendant. Andrew M. Saul became the Commissioner of Social Security on June 17, 2019. See OFFICIAL SOCIAL SECURITY WEBSITE <https://www.ssa.gov/agency/commissioner.html> (last accessed Sept. 3, 2019). Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, as the new Commissioner of Social Security, Andrew M. Saul is automatically substituted for the original defendant. FED. R. CIV. P. 25(d).

plain error or manifest injustice. FED. R. CIV. P. 72(B) 1983 Advisory Committee Notes ("When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record to accept the recommendation"); see also 28 U.S.C. § 636(b)(1); Sullivan v. Cuyler, 723 F.2d 1077, 1085 (3d Cir. 1983).

After a careful review, we find neither a clear error on the face of the record nor a manifest injustice, and therefore, we shall adopt the report and recommendation. It is hereby **ORDERED** as follows:

- 1) The magistrate judge's report and recommendation (Doc. 12) is **ADOPTED**;
- 2) Plaintiff's social security appeal (Doc. 1) is **DENIED**;
- 3) The Clerk of Court is directed to **ENTER** judgment in favor of defendant and against plaintiff; and
- 3) The Clerk of Court is directed to **CLOSE** this case.

BY THE COURT:


JUDGE JAMES M. MUNLEY
United States District Court